

Apr-21-2011 16:08 From-

T-188 P.002/008 F-736

MEMO ENDORSE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
JOSEPH MOSCA, JR.,

Plaintiff,

- against -

472 GRAMATAN OWNERS, INC.; 472
GRAMATAN OWNERS, INC. BOARD OF
DIRECTORS; PAUL DONAHUE; DAVID
FRANKS; HUDSON NORTH MANAGEMENT,
LLC; RICK TANCREDI; GRAMATAN
MANAGEMENT, INC.; BRAM FIERSTEIN; and
GARY GUTEKUNST,Defendants.
-----X

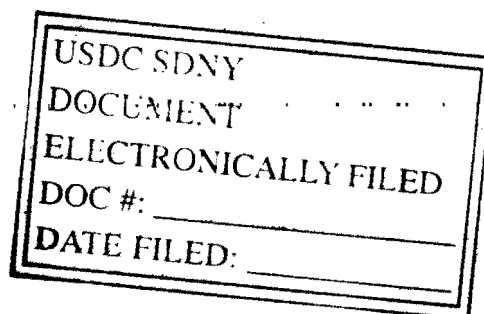
11 Civ. 1084 (CS)

ECF CASE

CONSENT DECREE

WHEREAS, Plaintiff JOSEPH MOSCA, JR. ("Plaintiff") commenced this action on February 16, 2011 against Defendants 472 GRAMATAN OWNERS, INC.; 472 GRAMATAN OWNERS, INC. BOARD OF DIRECTORS; PAUL DONAHUE; DAVID FRANKS; HUDSON NORTH MANAGEMENT, LLC; RICK TANCREDI; GRAMATAN MANAGEMENT, INC.; BRAM FIERSTEIN; and GARY GUTEKUNST (collectively "Defendants"); and

WHEREAS, Plaintiff's complaint alleges that Defendants violated the Fair Housing Amendments Act of 1988 ("FHA"), 42 U.S.C. § 3601 *et seq.*, New York Executive Law § 290 *et seq.* ("NYS Human Rights Law"), and Westchester County Human Rights Law § 700 *et seq.* ("WC Human Rights Law") in failing to reasonably accommodate his disabilities, intentionally discriminating against him, and retaliating against him; and



WHEREAS, Defendants deny the Plaintiff's allegations, and have consented to the entry of this Consent Decree without any trial or adjudication of any issues of fact or law and without this Consent Decree constituting an admission by Defendants with respect to any such issues; and

WHEREAS, as a result of the negotiations between the parties, the Plaintiff and Defendants have agreed to resolve this action informally, solely as a compromise, and to avoid the need for further litigation before the Court;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 3601 *et seq.* This Court has supplemental jurisdiction over the state and county claims pursuant to 28 U.S.C. § 1367.
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

APPLICATION AND PARTIES BOUND

3. At all times relevant, Mr. Mosca has resided, and currently resides, at 472 Gramatan Avenue, Building #6 ("Building Six"), Apartment 4-BB, Mount Vernon, New York.
4. Defendant 472 Gramatan Owners, Inc. is a New York State domestic business corporation with its principal place of business at 472 Gramatan Avenue, Mount Vernon, NY 10552 ("Property"). Defendant 472 Gramatan Owners, Inc. owns, and through its Board of Directors manages and leases apartments at, the Property, including Building Six and parking lots that service the residents of the Property.

5. Defendant 427 Gramatan Owners, Inc. Board of Directors is the governing body of 472 Gramatan Owners, Inc.
6. Defendant Paul Donahue is an individual domiciled in the State of New York and is the President of the Board of Directors of 472 Gramatan Owners, Inc.
7. Defendant David Franks is an individual domiciled in the State of New York and is the Vice President of the Board of Directors of 472 Gramatan Owners, Inc.
8. Defendant Hudson North Management, LLC is a New York State domestic limited liability company with its principal place of business at 1053 Saw Mill River Road, Ardsley, New York 10502, and until January 2010 was the Property Manager of 472 Gramatan Owners, Inc.
9. Defendant Rick Tancredi is domiciled in the State of New York, and until January 2010, as an employee of Hudson North Management, he acted as the Property Manager of the 472 Gramatan Owners, Inc.
10. Gramatan Management, Inc. is a New York domestic business corporation with its principal place of business at 2 Hamilton Avenue, Suite 217, New Rochelle, NY 10801, and since February 2010 has been the Property Manager of 472 Gramatan Owners, Inc.
11. Bram Fierstein is domiciled in the State of New York and is the President of Gramatan Management, Inc.
12. Gary Gutekunst is domiciled in the State of New York and is the Vice President of Gramatan Management, Inc.
13. This Consent Decree applies to, and is binding upon, Defendants and each of their successors and assigns. The undersigned representative of Defendants certifies that she is

authorized by Defendants to enter into and consent to the terms and conditions of the Consent Decree and to execute and legally bind Defendants to it.

14. This Consent Decree shall become ineffective once plaintiff vacates the subject premises.

INJUNCTIVE RELIEF

15. Within sixty (60) days of the effective date of this Consent Decree, Defendants 472 Gramatan Owners, Inc.; 427 Gramatan Owners, Inc. Board of Directors; Paul Donahue; David Franks; Gramatan Management, Inc.; Bram Fierstein; and Gary Gutekunst shall create a loading and unloading zone of at least ten (10) feet wide by twenty-five (25) feet long for persons who are handicapped/disabled to be loaded and unloaded from motor vehicles. Behind the aforementioned twenty-five (25) feet, there shall be at least an additional five (5) feet of open and available space so that persons who are handicapped/disabled have enough room to get on and off any lifts. "Handicapped" and "disabled" include those persons who are handicapped and disabled within the meaning of the FHA, the NYS Human Rights Law, and the WC Human Rights Law. The zone shall be located in the area owned by 472 Gramatan Owners, Inc. off Fleetwood Avenue near the back of Buildings Four (4) and Six (6). No handicapped/disabled parking permit shall be required to park in the zone. The zone shall be clearly marked with sign(s) indicating that the zone is strictly reserved for loading and unloading of persons with handicaps/disabilities and that vehicles may be in the zone for no more than forty (40) minutes.
16. Within sixty (60) days of the effective date of this Consent Decree, the Defendants in paragraph 15 shall smooth out the blacktop asphalt located to the left of the entrance to the large parking lot off Fleetwood Avenue closest to Cedar Street so that Plaintiff may

safely travel in his wheelchair from his building to the above-mentioned loading and unloading zone.

17. Within one hundred and twenty (120) days of the effective date of this Consent Decree, over fifty percent (50%) of the members of the 472 Gramatan Owners, Inc. Board of Directors ("Board") shall attend a training of approximately one (1) hour on fair housing laws under the FHA, NYS Human Rights Law, and WC Human Rights Law. The training shall occur at a regularly scheduled Board meeting. The Westchester County Human Rights Commission ("Commission") shall conduct the training, unless the Commission is unable to provide the training in which case the training shall be provided by the U.S. Department of Housing and Urban Development ("HUD") or, at the Defendants' expense, a private not-for-profit housing agency certified by HUD as an agency capable of providing fair housing training.

RELEASE

18. In exchange for Defendants performing the acts specified in paragraphs 15, 16, and 17, and only after the Defendants in paragraph 15 and 16 have performed the acts specified in those paragraphs, Plaintiff shall execute and deliver to Defendants, through counsel, a release in the form attached to this Consent Decree as Exhibit A.

VIOLATION OF THIS CONSENT DECREE

19. Any violation of this Consent Decree shall be enforceable by application to this Court.

MODIFICATION

20. There shall be no modification of this Consent Decree without the written consent of the parties and the approval of the Court.

ENTIRE AGREEMENT

21. This Consent Decree represents the entire agreement between the parties. No prior agreements, oral representations or statements shall be considered part of this Consent Decree.

JURISDICTION

22. This Court shall retain jurisdiction of this action, subsequent to dismissal, in order to enforce the provisions of this Consent Decree.

23. The parties shall discuss and attempt to negotiate a resolution of any dispute relating to the interpretation of this Consent Decree before bringing the matter to the Court's attention for resolution.

EXECUTION OF CONSENT DECREE

24. This Consent Decree may be executed in counterparts, each of which shall be an original and shall constitute one and the same instrument.

COSTS AND ATTORNEY'S FEES

25. Each party shall bear its own costs and attorney's fees in this action.

EFFECTUATING CONSENT DECREE

26. The parties agree to entry of this Consent Decree upon final approval by the Court.

27. The effective date of this decree shall be the date that it is entered by this Court.

DISMISSAL

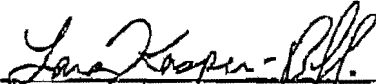
28. Upon final approval of this Consent Decree by the Court, the Plaintiff requests that the action herein be voluntarily dismissed with prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure which permits such dismissal "by court order, on terms that the court considers proper."

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THE PARTIES HEREBY CONSENT to entry of the foregoing Consent Decree.

FOR THE PLAINTIFF:


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FOR THE DEFENDANTS:


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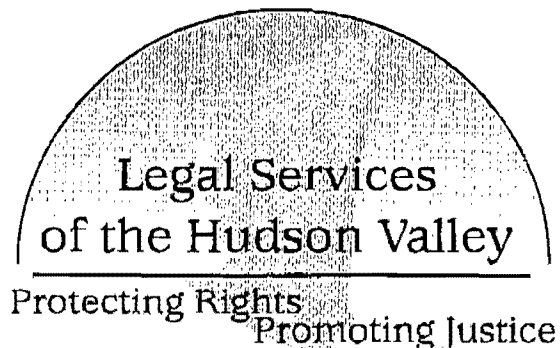
JUDGMENT IS HEREBY ENTERED in accordance with the foregoing Consent Decree.

Case to be closed in accordance with Paragraph 28 herein.

Dated: White Plains, New York

4/21, 2011


UNITED STATES DISTRICT JUDGE

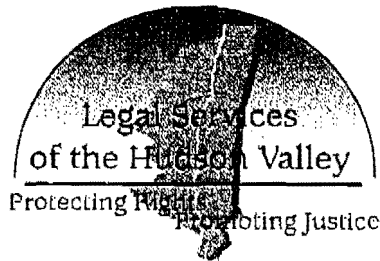


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TO:	The Honorable Cathy Seibel
FAX #:	(914) 390-4278
FROM:	Lara Kasper-Buckareff, Esq.
DATE:	4/21/2011
SUBJECT:	<i>Joseph Mosca, Jr. v. 472 Gramatan Owners, Inc., et al.</i> , 11 Civ. 1084 (CS)
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April 21, 2011

Via facsimile (914) 390-4278

The Honorable Cathy Seibel
United States District Court, S.D.N.Y.
300 Quarropas Street
White Plains, NY 10601-4150

Re: *Joseph Mosca, Jr. v. 472 Gramatan Owners, Inc., et al.*, 11 Civ. 1084 (CS)

Dear Judge Seibel,

Our office represents Plaintiff Joseph Mosca, Jr. in the above-captioned matter. The parties have settled this matter pursuant to the terms of the attached Consent Decree.

Thank you for your consideration.

Respectfully yours,

Lara Kasper-Buckareff
Attorney for Plaintiff

Enclosure

Cc: Elizabeth Gorman, Esq., Attorney for Defendants, by email



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